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FEB 12 2009

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

12 UNITED STATES OF AMERICA, ) No. CR 08-00815 CRB; CR-04-0016 CRB  
13 Plaintiff, )  
14 v. ) [PROPOSED] ORDER DETAINING  
15 BRUCE EDWARD ATKINS, ) DEFENDANT BRUCE EDWARD  
a/k/a "Shit," ) ATKINS PENDING TRIAL AND  
16 Defendant. ) EXCLUDING TIME UNDER THE  
 ) SPEEDY TRIAL ACT  
Date: February 6, 2009  
Time: 9:30 a.m.  
Court: Hon. Maria-Elena James

19 The defendant, Bruce Edward Atkins, is charged with one count of distribution of cocaine  
20 base in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C). Additionally, it is alleged that  
21 defendant committed four violations of the terms of his supervised release as set forth in the  
22 Amended Petition for Arrest Warrant for Offender Under Supervision in Case No. CR-04-0016  
23 CRB ("Petition"). On February 6, 2009, this Court heard the United States' motion to detain  
24 defendant without bail pending trial. Defendant Atkins was present, in custody, and represented  
25 by counsel. The parties proceeded, without objection, by proffer. Both parties had an  
26 opportunity before the hearing to review a report prepared by the United States Pretrial Services  
27 Agency.

28 [PROPOSED] ORDER RE: DETENTION AND TIME EXCLUSION  
CR 08-00815 CRB; CR-04-0016 CRB

1        After considering the evidence and the parties' arguments, this Court Orders that  
2 defendant be detained pending trial. The Court finds by clear and convincing evidence that  
3 defendant poses a serious risk of danger to the community.

4        For the reasons stated on the record at the detention hearing, including the following, the  
5 Court finds that under 18 U.S.C. § 3142(e), no condition or combination of conditions will  
6 reasonably ensure the safety of the community: According to the indictment and the proffer by  
7 the government at the detention hearing, defendant committed several violations of the  
8 conditions of his supervised release and the law since his release during the pendency of the  
9 Petition on July 2, 2008, including the distribution of cocaine base to a confidential informant on  
10 or about August 12, 2008, failure to appear for a required drug test on or about August 6, 2008,  
11 and defendant tested positive for marijuana on or about November 5, 2008.

12       Additionally, the parties agreed to an exclusion of time under the Speedy Trial Act (18  
13 U.S.C. § 3161) from February 6, 2009 to February 18, 2009, in light of the need for defendant's  
14 counsel to review discovery. Failure to grant the requested continuance would unreasonably  
15 deny defense counsel reasonable time necessary for effective preparation, taking into account the  
16 exercise of due diligence. Given these circumstances, the Court found that the ends of justice  
17 served by excluding the period from February 6, 2009 to February 18, 2009 outweigh the best  
18 interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

19       Based on the foregoing, the United States' motion for detention is GRANTED and time is  
20 excluded under the Speedy Trial Act between February 6, 2009 and February 18, 2009. IT IS  
21 HEREBY ORDERED that:

- 22              1.       Defendant Atkins be detained pending trial pursuant to 18 U.S.C. § 3142;
- 23              2.       Defendant Atkins be, and hereby is, committed to the custody of the  
24 Attorney General for confinement in a corrections facility separate, to the extent practicable,  
25 from persons awaiting or serving sentences or being held in custody pending appeals;
- 26              3.       Defendant Atkins be afforded reasonable opportunity for private  
27 consultation with his counsel;

1           4. On order of a court of the United States or on request of an attorney for the  
2 government, the person in charge of the corrections facility where defendant Atkins is confined  
3 shall deliver defendant Atkins to an authorized Deputy United States Marshal for the purpose of  
4 any appearance in connection with a court proceeding; and

5           5. With the consent of defendant Atkins, the period from February 6, 2009 to  
6 February 18, 2009 is excluded from the Speedy Trial Act calculations under 18 U.S.C. §  
7 3161(h)(8)(A) & (B)(iv).

8

9 IT IS SO ORDERED

10

11 DATED: February 12, 2009

HONORABLE MARIA-ELENA JAMES  
United States Magistrate Judge

12

13 Approved As To Form:

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15           /s/  
16 JAMES C. MANN  
17 Assistant United States Attorney  
18 Counsel for United States

19           /s/  
20 HARRIS TABACK  
21 Counsel for Bruce Edward Atkins

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